

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

<b>EARLINE JENKINS</b>	)	
Claimant	)	
VS.	)	
	)	
<b>KANSAS UNIVERSITY HOSPITAL AUTHORITY</b>	)	Docket No. 1,000,440
Respondent	)	
AND	)	
	)	
<b>ROYAL &amp; SUNALLIANCE</b>	)	
Insurance Carrier	)	

**ORDER**

Claimant appeals the June 26, 2003 Award of Administrative Law Judge Julie A.N. Sample. Claimant contends she suffered a new accidental injury on August 23, 2001. Respondent, on the other hand, argues that claimant's injury is a natural consequence of the March 5, 1998 original back injury, with no additional impairment suffered from the 2001 incident. The Appeals Board (Board) heard oral argument on December 16, 2003. Board Member Julie A.N. Sample has recused herself from this matter, having been the Administrative Law Judge at the time of the original Award. Jeff K. Cooper has been appointed as Board Member Pro Tem for the purposes of this appeal.

**APPEARANCES**

Claimant appeared by her attorney, Luis Mata of Kansas City, Missouri. Respondent and its insurance carrier appeared by their attorney, Patricia A. Wohlford of Kansas City, Missouri.

**RECORD AND STIPULATIONS**

The Board has considered the record and adopts the stipulations contained in the Award of the Administrative Law Judge.

The parties acknowledged at oral argument that respondent's contention that claimant failed to timely appeal this matter to the Board had been resolved and was no longer before the Board for its determination.

**ISSUES**

What is the nature and extent of claimant's injury and/or disability? More particularly, did claimant suffer additional permanent partial general disability as a result of a new accident and injury on August 23, 2001, or are claimant's problems a reasonable and natural consequence of the original injury on March 5, 1998, as was held by the Administrative Law Judge in the Award?

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Having reviewed the entire evidentiary file contained herein, the Board finds the Award of the Administrative Law Judge should be affirmed.

The Administrative Law Judge sets out findings of fact and conclusions of law in significant detail, and it is not necessary to repeat those herein. The Board adopts those findings and conclusions as its own as though fully set forth herein.

The Board agrees with the Administrative Law Judge's findings and conclusions that claimant's ongoing difficulties with her low back are a natural consequence of the original injury occurring on March 5, 1998. Additionally, the Board finds that claimant has suffered a 5 percent impairment to her lumbar spine as a result of the March 5, 1998 accidental injury, with no additional aggravation suffered as a result of the August 23, 2001 fall.

The Board finds it significant that the medical records of Robert Rondinelli, M.D., show two very similar injuries approximately three years apart, with claimant's complaints after both injuries also being very similar. Claimant's medical expert, Daniel D. Zimmerman, M.D., admitted that there were no diagnostic studies revealing any change in claimant's physical structure after the 2001 accident. Additionally, the medical reports show that claimant's ongoing need for medication is due to her peripheral neuropathy stemming from her diabetes, rather than anything associated with the slip and fall back injury. The Board finds that while claimant has shown some additional complications, as of 2001, there is no indication from the record that these complications are related to her fall. Rather the medical evidence supports a finding that claimant's worsening condition, which resulted in her having to stop working for respondent, is due to the complications associated with her diabetes, rather than any accident suffered while employed with respondent.

The Board, therefore, finds that claimant suffered a 5 percent impairment to the body as a whole as a result of the March 5, 1998 original back injury, with no additional impairment suffered as a result of the slip and fall on August 23, 2001. The Board, therefore, affirms the finding of the Administrative Law Judge that claimant should be

denied any additional permanent partial general disability against respondent for the August 23, 2001 accident.

**AWARD**

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Award of Administrative Law Judge Julie A.N. Sample dated June 26, 2003, should be, and is hereby, fully affirmed in all regards.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of January 2004.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: Luis Mata, Attorney for Claimant  
Patricia A. Wohlford, Attorney for Respondent  
Kenneth Hursh, Administrative Law Judge  
Anne Haught, Acting Workers Compensation Director